

Minutes

DVD No. 451

The City Council of the City of Leawood, Kansas, met in regular session in the Council Chambers, 4800 Town Center Drive, 7:30 P.M. on Monday, November 4, 2019. Mayor Peggy Dunn presided.

**Councilmembers Present:** Chuck Sipple, James Azeltine, Julie Cain, Jim Rawlings, Mary Larson, Debra Filla, Andrew Osman and Lisa Harrison

**Councilmembers Absent:** None

<b>Staff Present:</b> Scott Lambers, City Administrator	Patty Bennett, City Attorney
David Ley, Public Works Director	Chief Troy Rettig, Police Department
Chris Claxton, Parks & Recreation Director	Dawn Long, Finance Director
Mark Tepesch, Info. Services Specialist III	Ross Kurz, Info. Services Director
Nic Sanders, Human Resources Director	Chief Dave Williams, Fire Department
Brian Anderson, Parks Superintendent	Kelly Varner, Future City Clerk
Debra Harper, City Clerk	Cindy Jacobus, Assistant City Clerk

**Others Present:** Kevin Jeffries, President, Chief Executive Officer and Director of Economic Development, Leawood Chamber of Commerce

1. **PLEDGE OF ALLEGIANCE**
2. **APPROVAL OF AGENDA**

Mayor Dunn stated the agenda had been amended to add one-page supplement to Consent Agenda Item 7.C. Bike/Walk Leawood Committee meeting minutes and to add an update on Public Works Projects by Public Works Director David Ley under Agenda Item 11. Staff Report.

**A motion to approve the amended agenda was made by Councilmember Rawlings; seconded by Councilmember Sipple. The motion was approved with a unanimous vote of 8-0.**

3. **CITIZEN COMMENTS** - None  
Members of the public are welcome to use this time to make comments about City matters that do not appear on the agenda, or about items that will be considered as part of the consent agenda. It is not appropriate to use profanity or comment on pending litigation, municipal court matters or personnel issues. Comments about items that appear on the action agenda will be taken as each item is considered. **CITIZENS ARE REQUESTED TO KEEP THEIR COMMENTS UNDER 5 MINUTES.**

**4. PROCLAMATIONS**

**Purple Heart City November 11, 2019**

Mayor Dunn requested Commander Walt Schley of Chapter 115 of the Military Order of the Purple Heart-Kansas City and all Purple Heart recipients in attendance to come forward, and she read the proclamation into the record. Mayor Dunn thanked all for their service and presented the proclamation. A round of applause was offered by attendees.

Commander Schley thanked the Council, stating Leawood is the first city in the Kansas metro area to be a “Purple Heart City”, honoring recipients in Leawood from the past, present and unfortunately, into the future. He introduced five other Purple Heart recipients from Chapter 115 in attendance: George Behart, recipient of two Purple Hearts for service in Vietnam; Ted Scott for one wound, Ted Wakeman for one wound; and Glenn Laird wounded in the leg by AK-47 fire. He stated they get to wear the medal because they survived. Commander Schley asked all Rotarians and all Military Veterans to come forward, and he read the inscription on a Purple Heart plaque, which he presented to Mayor Dunn along with a Purple Heart City sign and Reserved Parking sign for Combat Wounded Combatants.

Mayor Dunn thanked Leawood Rotary President Rick Robinson for meeting with her and City Administrator Scott Lambers, and bringing this idea forward. The City has a special partnership with the Rotary.

Multiple group photographs were taken, followed by a round of applause.

**Turn On Porch Lights for Veterans Day,  
November 11, 2019**

Mayor Dunn read the proclamation into the record and hoped all would remember to turn on their porch lights on November 11, 2019.

**5. PRESENTATIONS/RECOGNITIONS – None**

**6. SPECIAL BUSINESS – None**

**7. CONSENT AGENDA**

Consent agenda items have been studied by the Governing Body and determined to be routine enough to be acted upon in a single motion. If a Councilmember requests a separate discussion on an item, it can be removed from the consent agenda for further consideration.

- A. Accept Appropriation Ordinance Nos. 2019-42 and 2019-43
- B. Accept minutes of the October 21, 2019 Governing Body meeting
- C. Accept minutes of the July 10, 2019 Bike/Walk Leawood Committee meeting
- D. Accept minutes of the August 21, 2019 Bike/Walk Leawood Committee meeting
- E. Accept minutes of the July 11, 2019 Sustainability Advisory Board meeting
- F. Authorizing the change of City Clerk signatures on the City’s Commerce Bank account; removing Deb Harper and adding Kelly L. Varner effective December 7, 2019
- G. Approve Renewal of Cereal Malt Beverage [CMB] License for Trader Joe’s, located at 4201 W. 119<sup>th</sup> Street
- H. Approve massage establishment license for Serene Leaf Massage located at 4707 College Boulevard, Suite101, in accordance with Code Section 5-510
- I. Approve Budget Amendment pertaining to repairs on Fire Quint Unit # 33 in the amount of \$35,000.00

- 7.J. **Resolution No. 5268**, calling for a Public Hearing to be heard on Monday, December 2, 2019, at 7:00 P.M., or as soon thereafter as may be heard regarding amendments to the 2019 Fiscal Budget for the City of Leawood, Kansas

Councilmember Filla requested Consent Agenda Item 7.C. be pulled.

**A motion to approve the remainder of the Consent Agenda was made by Councilmember Harrison; seconded by Councilmember Larson. The motion was approved with a unanimous vote of 8-0.**

- 7.C. Accept minutes of the July 10, 2019 Bike/Walk Leawood Committee meeting

Councilmember Filla pointed out the minutes referred to a Kansas City Star 913 newspaper article on Leawood's North and South bicycle loops, which featured Parks Superintendent Brian Anderson. A copy of the July 9, 2019 article was provided. The loops are unique in the metro area, and she has received public comments and testimony that the bicycle loops are a great exercise option and very easy to ride.

Councilmember Filla requested any time a Staff member is quoted about the City in published media, a copy be included in the record.

**A motion to accept Consent Agenda Item 7.C. was made by Councilmember Filla; seconded by Councilmember Larson. The motion was approved with a unanimous vote of 8-0.**

## 8. MAYOR'S REPORT

- A. Attended the American Public Square program titled "Affordable Housing: Making the Numbers Work." There was a great deal of good information distributed and is included in your packet. There is a belief that approximately 25,000 housing units are needed in the Kansas City area with monthly rents of no more than \$500 to begin to meet the needs of this important issue.
- B. Had the pleasure of attending a breakfast at the home of Leawood residents Zahid and Carrie Awan in honor of the Ambassador of Pakistan, Dr. Asad Majeed Khan. Also in attendance were Senator Skubal, Representatives Kessinger and Stogsdill, and Lenexa Mayor Boehm, along with individuals from Greater Kansas City People to People International and U.S. Army Command and General Staff College.
- C. Had the honor of serving as the Honorary Chair for MOCSA's Johnson County Fall Forum. My thanks to Police Chief Troy Rettig and his leadership team for attending and for their decades of support for MOCSA's mission. Councilmember Chuck Sipple and Leawood Chamber President Kevin Jeffries were also in attendance.
- D. Congratulations once again are in order for our City of Leawood. Personal Finance website WalletHub has for the second year in a row ranked Leawood as its "Best City in America." WalletHub accessed 1,268 cities with populations between 25,000 to 100,000 on five key dimensions: affordability, economic health, education and health, safety and quality of life. This recognition comes in addition to two recent rankings of Leawood as the safest city in Kansas.
- E. Finally, please exercise your tremendous privilege to vote tomorrow on Election Day. Good luck to all of the candidates.

## 9. COUNCILMEMBERS' REPORT

### A. Councilmember Filla – Final Report on Community Garden Task Force - *[continued from November 5, 2018 Governing Body meeting]*

Councilmember Filla reviewed the Task Force history and mission, lessons learned, sites considered, vision, trends and recommendations presented in the “Recommendation for a Permanent Community Garden and Park” report.

The temporary pilot Community Garden located behind Fire Station No. 1 was a great success, exceeding expectations even today as some kale and carrots were found when fencing was dismantled. The pilot came about from a simple request by Ms. Kayla Bruce, a horticulturist who has provided leadership. The pilot also benefitted from the skills of Mr. Matt Belzer and his partner. The pilot was extended several years because of cell tower removal delays at the site.

The Task Force’s mission statement is: “When it comes to local organically grown food, Leawood citizens know it, grow it, eat it and share it.”

Lessons learned include the need for upfront maintenance design plan for positive appearance throughout the year; perimeter fencing rather of one material rather than individual plot fencing installed with various skill-levels and materials; more than 30 days advance notice in regard to availability and expectation communications; and ability to enforce guidelines and foster partnerships through continuity and permanency.

Several future sites were considered, excluding locations at City Park or Ironwoods Park based on poor soil quality, flood plain location and to not be in an existing park. The Task Force’s desired visions for the Community Garden include a sustainably-designed respite park; welcome space and shelter for pedestrians, bicyclists and educators; ADA-compliant parking and pathways; incorporation of permanent native plants, herbs, rain gardens and stormwater solutions; perimeter fencing and permanent year-round landscaping and grass; establishing partnership with Johnson County Master Gardeners and Extension Service; a shed with secure entry as a place for equipment storage and communication posting; professional-grade compost/recycling bins; and continued revision of guidelines. The garden would be demonstrative as well as provide individual bounty.

Trends include Community Gardens in Overland Park and Prairie Village that have been sold out for years with waiting lists and agricultural neighborhoods known as “agrihoods” that continue to grow across the country. There are 150 of these farm-centered, eco-conscious communities in the U.S.

Councilmember Filla shared a quote by Ms. Allison Smith, co-founder of the Olivette development agrihood located outside of Asheville, North Carolina: “There is a gentle pull at everyone’s heart these days. We want connection with each other *and* connection to the land. As gardeners ourselves, we’d noticed that there’s a vital, engaged community around growing food. So a farm seemed like a good way to create community.”

Task Force desires are two-fold: to educate members and connect to future stewards of the land. The Task Force recommends:

1. Conversion of 0.7 acre property at 3204 W. 143<sup>rd</sup> Street into a permanent Community Garden, passive park and way-station for pedestrians and bicyclists. Request \$25,000 revision to the 2020 Budget for plan design consultant. If the plan is approved, identify a funding source to build the park in 2021.
2. Continuation of the Community Garden Task Force for another year to work with consultant.
3. Development of transition plan for the Community Garden Task Force to become a permanent working committee or sub-committee.

An aerial map of the area along 143<sup>rd</sup> Street was displayed with property acquired by the City necessitated by the widening of 143<sup>rd</sup> Street outlined in red.

Mayor Dunn noted Items 4, 5, and 6 shown on Page 2 of the report indicate follow-up is needed. These three sites may have merit in the future. She stated a large portion of Ironwoods Park is not in the flood plain, being ideal for the use and worthy of consideration with a water source and soil amendment. She visited the proposed location and took note of the million dollar homes in the area. A meeting with surrounding residents, similar to an Interact Meeting, is needed to determine their input on this potential project before hiring a consultant.

Councilmember Filla confirmed to Mayor Dunn two properties abuts the proposed location, with one having an existing garden. Mayor Dunn stated the City's protocol is to notify the presidents of all Home Owners Associations within 1,000 ft. Mr. Lambers suggested the City have direct contact with the abutting property owners and bring forth their comments on possibility of project at the next Governing Body meeting. The requests being made are to follow the planning process, and to expend money for consultant and ultimate construction. An update could be provided at the November 18, 2019, Governing Body meeting. In the interim, Councilmembers would have time to visit the site, while he obtains neighbor comments.

Councilmember Rawlings, a two-year participant in the Community Garden, complimented the comprehensive report. He requested to see an analysis of Ironwoods Park as the location, as the park has a large amount of land and existing roadways and parking. If a quiet respite is desired, the proposed location on 143<sup>rd</sup> Street would not provide.

Councilmember Cain has been on the Parks & Recreation Advisory Board for many years and although she is a proponent of Community Gardens, the Parks Department already has a lengthy unfunded list of projects and needs in queue. Building shelter and parking would be expensive and a location already having these amenities to share is needed. She does not support proposed 143<sup>rd</sup> Street location and the Parks & Recreation Advisory Board has not reviewed this information.

Mayor Dunn stated the Task Force is a sub-committee of the Sustainability Advisory Board, the reason why the Parks & Recreation Advisory Board has not seen. At some point, the Parks & Recreation Advisory Board should review. She expressed concern that information she desired would not be available in two weeks and by only speaking with owners of the two abutting properties. Any discussion with neighbors should refer to this as a potential project.

Councilmember Cain confirmed to Mayor Dunn the next Parks & Recreation Advisory Board meeting was scheduled for Tuesday, November 12, 2019, 5:30 P.M. in City Hall. Ms. Claxton stated she was finalizing the agenda for that meeting, but the topic could be added.

Councilmember Azeltine stated since this is in regard to a park, the Parks & Recreation Advisory Board should review.

Ms. Claxton stated with an addition of 45 acre property in the future, the Parks Master Plan for the park would need overall review and revision. The vision of the Parks & Recreation Advisory Board had been to focus on maintenance of properties currently owned, so Board input would be very important.

Councilmember Cain stated funding source was unclear. Mr. Lambers stated that determination would come through the consultant report. The Governing Body would consider whether to move forward after comparison and prioritization of projects at the annual review of the Capital Improvement Program [CIP]. Parks & Recreation improvements are funded approximately \$1 Million in the CIP for several years. He estimated the project would cost more than tens of thousands of dollars, based on parking and other City requirements.

Mayor Dunn summarized the plan would be to have the project reviewed at the November 12, 2019 Parks & Recreation Advisory Board meeting, meet with the two owners of abutting property, and speak with Staff about alternate site at Ironwoods Park, and for the Governing Body to receive a due diligence update at their November 18, 2019 meeting.

Mayor Dunn thanked Councilmember Filla for her leadership and members of the Task Force for all their hard work, stating this update had been scheduled as an agenda topic one year ago.

- 9.B. **Councilmember Azeltine** - Request for Stormwater Management Committee to review easement costs pertaining to the Leawood South SMAC Project [to be heard at the November 20, 2019 Stormwater Management Committee meeting]

Councilmember Azeltine stated plans for the Stormwater Management Advisory Council [SMAC] project in Leawood South are approximately 90% complete. Fifty-four properties are impacted. Staff distributed letters and has met with property owners on easements over the last few months. The City has received only four of the 21 easements needed. The request would be to develop a recommendation to the Governing Body to continue to work with residents on easements, use condemnation and pay for easements or complete project design and put construction on hold.

**A motion to approve Agenda Item 9.B. was made by Councilmember Azeltine; seconded by Councilmember Larson. The motion was approved with unanimous vote of 8-0.**

**10. CITY ADMINISTRATOR REPORT – None**

## 11. STAFF REPORT

Public Works Director David Ley

Update on Public Works Projects

Mr. Ley presented the following updates:

Mission Road, 119<sup>th</sup> Street to 123<sup>rd</sup> Street, was anticipated to open for two-way traffic by end of October, but this will happen sometime this week. The current roadway surface will be utilized. Utilities on the east side of Mission are scheduled to be complete by December. Having this phase of the Mission Road project open to traffic should alleviate traffic cut-throughs.

Mission Road, 123<sup>rd</sup> Street to 127<sup>th</sup> Street, is hoped to be completed by the first week of December. The contractor has about five weeks left of storm sewer installation. Pavement would then be patched and the road opened to traffic in mid-December. Utilities would be finished in Spring 2020.

Mr. Ley confirmed to Mayor Dunn it is hoped all concrete pipe could be in the ground by the first week in December. All 60-inch diameter pipes have been installed along Mission Road and the contractor is now working on 54-inch diameter pipes, which are easier to install.

Lee Boulevard opened to traffic last week and two items remain. The contractor is working on 400 ft. of sidewalk between 97<sup>th</sup> Street and 98<sup>th</sup> Street, and the sod is to be installed. Completion is expected in two weeks.

95<sup>th</sup> Street should be complete in three weeks. Contractor is patching the pavement of the westbound lane.

Councilmember Rawlings stated he witnessed a bicyclist using the middle of Lee Boulevard between 98<sup>th</sup> Street and 103<sup>rd</sup> Street, rather than the bicycle lane. This slowed vehicular traffic. Mr. Ley stated there are numerous bicycle symbol lane markings on the pavement.

Mr. Ley confirmed to Councilmember Rawlings the City has an adequate supply of road salt.

Mayor Dunn thanked Mr. Ley for his effort and progress on projects during winter months. She shared that guests attending the breakfast with the Pakistan Ambassador commented Leawood streets had been in the best driving condition during the recent adverse weather event.

## ***COMMITTEE RECOMMENDATIONS***

### **12. PLANNING COMMISSION**

#### ***[from the August 27, 2019 Planning Commission meeting]***

- A. Ordinance approving a Rezoning from R-1 [Planned Single Family Low Density Residential District] to RP-2 [Planned Cluster Detached Residential District], Preliminary Plan and Preliminary Plat for Hills of Leawood Villas, located north of 151<sup>st</sup> Street and east of Mission Road. (PC Case 74-19) [ROLL CALL VOTE] - *CONTINUED FROM THE OCTOBER 7, 2019 GOVERNING BODY MEETING-WITHDRAWN*

*Staff Comment: The Applicant has asked that this application be withdrawn and indicated that it will file a new application for RP-1 zoning.*

**[from the October 22, 2019 Planning Commission meeting]**

- 12.B. **Resolution No. 5269**, approving a Revised Final Plat for Town Center Plaza – Lot 4-A Town Center Plaza Third Plat, located north of 119<sup>th</sup> Street and east of Nall Avenue. (PC Case 116-19)

Mr. J.D. Christie, 4800 Main Street, Kansas City, Missouri, gave a brief history. He stated a plan to redevelop the former On the Border restaurant location at 119<sup>th</sup> Street and Rosewood had been brought forward through the Planning Commission and Governing Body last year. The parcel was split into two lots, for a free-standing Shake Shack and a two-tenant building for Verizon/Helzberg Diamonds. During the permitting process it was noted the Verizon/Helzberg Diamonds building needed to move ft. to the east closer to Shake Shack to accommodate a 7 ft. sidewalk on the west side, closer to Arhaus, for pedestrian traffic. The request is for a deviation to requirement of 10 ft. interior lot setback from property lines, as recommended by the City.

Mr. Lambers stated Community Development Director Richard Coleman was unable to attend tonight's meeting, but Staff was supportive of the change.

Councilmember Cain stated in her review of documentation, all parties agree this needs to be done at this time.

Councilmember Sipple inquired if there were any properties where such a deviation had been granted and could be viewed. Mr. Lambers stated he could not recall any prior incidence, and Town Center Plaza elevation change from 119<sup>th</sup> Street north has been problematic. He stated the deviation is not significant and should not present a problem in the future.

Mayor Dunn stated there had been considerable discussion at the Planning Commission meeting. It was an allowable deviation if it had been upfront, but is now after-the-fact.

**A motion to approve Agenda Item 12.B. was made by Councilmember Cain; seconded by Councilmember Larson. The motion was approved with a unanimous vote of 8-0.**

**13. OLD BUSINESS – None**

**14. OTHER BUSINESS**

Schedule Governing Body meeting on November 18, 2019 at 7:30 P.M.

Mayor Dunn reminded the traditional City Hall Holiday Lighting Ceremony would be at 6:00 P.M. that night.

**A motion to approve Agenda Item 14.A. was made by Councilmember Filla; seconded by Councilmember Cain. The motion was approved with a unanimous vote of 8-0.**

**15. NEW BUSINESS**

- A. **Ordinance No. 2964C**, amending and restating Ordinance No. 2811, a contract franchise to Extenet Asset Entity, LLC, a Delaware Corporation, its successors and assigns, to construct, operate and maintain a Telecommunications System as a competitive infrastructure provider in the City of Leawood, Kansas and prescribing the terms of said amended contract franchise [ROLL CALL VOTE]

Ms. Bennett stated ExteNet was one of the first contract franchises to request small cell and distributed antennae systems on streetlights and utility poles. The proposed ordinance changes entity name to ExteNet Asset Entity, provides for future assignment to related entities allowed in attachment agreement, changes franchise term to coincide with attachment agreement, and changes the fee structure to bring into compliance with Kansas statutes.

Ms. Bennett confirmed to Councilmember Harrison fee of \$25 per attachment per year is all that is allowed by revised Kansas Statutes and this was the same offered to Verizon. In 2018 under the previous fee structure, ExteNet paid 5% of gross revenues, or approximately \$7,000.

**A motion to pass Agenda Item 15.A. was made by Councilmember Azeltine; seconded by Councilmember Filla. The motion was approved with a unanimous roll call vote of 8-0.**

- B. **Ordinance No. 2965C,** amending Sections 1-835, 1-836, 1-838, 1-855, and 1-856, of the Code of the City of Leawood, Kansas, 2000, pertaining to the re-designation of certain fund titles, and repealing the existing sections and any other sections in conflict herewith [ROLL CALL VOTE]

Ms. Long stated the proposed change was needed to implement Governmental Accounting Standards Board No. 84 [GASB-84]. When the Park Place Transportation Development District Fund and Camelot Court Community Improvement District Funds were initially established by ordinance they qualified as Agency Funds, but now they do not. They will be reported as Special Revenue Funds in a different section of the Comprehensive Annual Financial Report [CAFR].

Ms. Long confirmed to Councilmember Azeltine that no other restrictions were imposed on the funds.

Councilmember Sipple asked when GASB-84 was effective. Ms. Long stated the effective date was January 1, 2019. The funds had been accounted as Agency Funds until now and the change to Special Revenue Funds is being retroactively addressed.

**A motion to pass Agenda Item 15.B. was made by Councilmember Filla; seconded by Councilmember Sipple. The motion was approved with a unanimous roll call vote of 8-0.**

## ADJOURN

There being no further business, the meeting was adjourned at 8:35 P.M.

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Debra Harper, CMC, City Clerk

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Cindy Jacobus, Assistant City Clerk